

RHODES, HIERONYMUS, JONES, TUCKER & GABLE, P.L.L.C.  
LAWYERS

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Hal Crouch (1902-1947)  
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— Est. 1931 —

# RhodesHieronymus

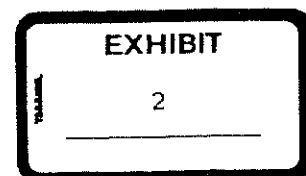
O K L A H O M A

Reply to: John H. Tucker  
jtucker@rhodesokla.com

September 26, 2005

**Via Certified Mail**  
**Return Receipt Requested**

Deb Corn  
City Clerk  
City of Tahlequah  
111 South Cherokee Avenue  
Tahlequah, OK 74464



Re: Supplemental Notice of Claim Pursuant to Oklahoma's Governmental Tort Claims Act and Notice of Claim pursuant to Solid Waste Disposal Act

Dear Madam:

On April 29, 2005, Cargill Turkey Production, LLC served you with a Notice of Claim pursuant to Oklahoma's Governmental Tort Claims Act and Notice of Claim pursuant to the Solid Waste Disposal Act. A copy of said Notice is attached hereto. At the time the Notice was served, the Attorney General for the State of Oklahoma had not yet filed a lawsuit. Cargill Turkey Production, LLC ("CTP") provides this supplemental notice to advise you of the Attorney General's litigation and the claims made therein. Cargill, Inc. ("Cargill") is also providing you notice of its Notice of Claim Pursuant to OKLA. STAT. tit. 51 § 156 and 42 U.S.C. § 6972(a)(1)(B).

On June 13, 2005, the Attorney General for the State of Oklahoma filed a lawsuit in the Northern District of Oklahoma against CTP, Cargill and other companies. On August 19, 2005, the Attorney General filed his First Amended Complaint. A copy of the First Amended Complaint is attached hereto. In its Amended Complaint, the State of Oklahoma has asserted claims under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, the Solid Waste Disposal Act ("SWDA"), 42 U.S.C. § 6972, state and federal statutes, and state and federal common law. Because the Attorney General served this lawsuit on CTP, Cargill and other companies, the same law requires that CTP and Cargill provide a 90-day notice to any other entity, party or company that they claim should be a part of any lawsuit filed by the Attorney General.

In his Amended Complaint, the Attorney General alleges that Illinois River Watershed has been damaged by poultry litter and its constituents, including the nutrients contained within poultry litter such as phosphorous and phosphorous compounds, and nitrogen and nitrogen compounds.

September 26, 2005  
Page 2

The Attorney General is claiming that poultry litter is a federally regulated solid and/or hazardous waste, and that its use in this Watershed is creating an "imminent and substantial endangerment to human health and the environment." The heart of the Attorney General's claim is that when poultry litter is applied to the land within the Watershed as a fertilizer, excess phosphorous and other components of the litter run-off the land and enter into the waters of the State of Oklahoma causing environmental harm.

CTP, Cargill, and the other companies deny that poultry litter or nutrients, such as phosphorus, are solid or hazardous wastes, that any damage has occurred, or that they or their contract poultry growers have violated any law. However, since the Attorney General claims that the release of the constituents of poultry litter including nutrients into the Illinois River Watershed are the source of alleged damages, other sources such as municipal waste systems, recreational facilities and their waste handling facilities, and golf courses, may be potentially liable under the same theories under state and federal law. You are receiving this notice pursuant to 42 U.S.C. § 6972(a)(1)(B) and OKLA. STAT. tit. 51 § 156, because your activities may be contributing nutrients and other substances to the waters in the Illinois River Watershed, by virtue of your operations of the aforementioned types, and the Attorney General has claimed that such nutrients and substances are causing an "imminent and substantial endangerment to human health and the environment."

CTP, Cargill, and the other companies deny the State's allegations, including that damage has occurred and deny that they are responsible for any such damage. However, because the State of Oklahoma instituted this litigation, CTP and Cargill intend to bring Third-Party Complaints against you, other point source contributors, and other non-point source contributors seeking relief in the form of an injunction requiring the third-parties to participate with CTP, Cargill and the other companies in each and every aspect of relief the Attorney General intends to achieve to the extent permissible under Oklahoma's Governmental Tort Claims Act. CTP and Cargill will also seek all other equitable and legal remedies available.

The State of Oklahoma is seeking the following in its First Amended Complaint:

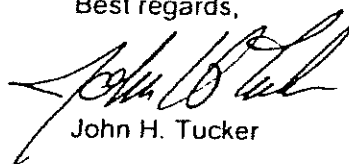
- I. All past monetary damages suffered by and all costs and expenses incurred by the State of Oklahoma in the Illinois River Watershed;
- II. All future monetary damages suffered by and all costs and expense incurred by the State of Oklahoma as result of and in connection with the continuing effects of the wrongful conduct in the Illinois River Watershed;
- III. A permanent injunction requiring the immediate abatement of pollution-causing conduct in the Illinois River Watershed, to remediate the Watershed, including the lands, waters and sediments therein, and to take all such actions as may be necessary to abate the imminent and substantial endangerment to the health and the environment;
- IV. All costs associated with assessing and quantifying the amount of remediation and natural resource damages as well as the amount of the natural resource damages itself;

September 26, 2005  
Page 3

- V. Restitution in an amount sufficient to make the State of Oklahoma whole for loss and damages it has suffered by release of these alleged constituents into the Illinois River Watershed;
- VI. Disgorgement of all gains realized in consequence of the release of these alleged constituents into the Illinois River Watershed;
- VII. Statutory penalties; and
- VIII. Reimburse the State for its attorney's fees and costs.

CTP and Cargill shall seek the same relief from Third-Party Point Source Contributors and Non-Point Source Contributors including the City of Tahlequah to the extent permitted by law. It is CTP and Cargill's position that any comprehensive and effective resolution to reduce the level of these constituents in the Illinois River Watershed must involve all stakeholders and potential contributors.

Best regards,



John H. Tucker

JHT:sw  
Enclosure

cc: The Honorable Brad Henry  
Governor of the State of Oklahoma  
State Capitol, Room 212  
Oklahoma City, Oklahoma 73105

Stephen J. Johnson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Richard Green  
Regional Administrator  
Environmental Protection Agency  
Region 6  
1445 Ross Ave. Ste 1200  
Dallas, TX 75202

Steve Thompson  
Executive Director  
Oklahoma Department  
of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

The Honorable W.A. Drew Edmondson  
Attorney General of the State of Oklahoma  
2300 N. Lincoln Blvd., Ste 112  
Oklahoma City, OK 73105

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## RhodesHieronymus

O K L A H O M A

April 29, 2005

Deb Corn  
City Clerk  
City of Tahlequah  
111 South Cherokee Avenue  
Tahlequah, OK 74464

Re: Notice of Claim Pursuant to Oklahoma's Governmental Tort Claims Act  
and Notice of Claim pursuant to Solid Waste Disposal Act

Dear Madam:

Pursuant to OKLA. STAT. tit. 51 § 156 and 42 U.S.C. § 6972(a)(1)(B), the following parties are providing you with their ninety-day notice of claim: Peterson Farms, Inc.; Tyson Foods, Inc.; Simmons Foods, Inc.; George's, Inc.; Willow Brook Foods, Inc. and Cargill Turkey Production, LLC (the "Companies").

The Companies have received notice from the Attorney General of the State of Oklahoma of the State's intent to file a Citizen's Suit pursuant to the Solid Waste Disposal Act, 42 USC § 6972(a)(1)(B). The State of Oklahoma has notified the Companies that the State will assert actions for additional remedies under other state and federal statutes, and under state and federal common law.

In his Notice, the Attorney General alleges that the Illinois River Watershed has been damaged by the nutrients found in poultry litter, including phosphorus and phosphorus compounds, and nitrogen and nitrogen compounds. The Attorney General claims that poultry litter is a regulated solid and/or hazardous waste, and that its use in the Illinois River is creating an "imminent and substantial endangerment to human health and the environment."

The Companies deny that poultry litter or nutrients, such as phosphorus, are soil or hazardous wastes, or that their contract poultry growers have violated any law. However, since the Attorney General claims that the release of nutrients into the Illinois River Watershed is the source of alleged damages, other sources of nutrients potentially may be liable under the same theories. You are receiving this notice because your activities may be contributing nutrients and other substances in the Illinois River Watershed.

The Companies deny the State's allegations that damage has occurred and they deny responsibility for any such damage. The Companies believe it may be possible to avoid

Page 2  
April 29, 2005

litigation with the Attorney General. However, should the State of Oklahoma institute litigation, the Companies intend to bring Third-Party Complaints against other Point Source Contributors and other Non-Point Source Contributors. The relief sought by the Companies will include an injunction requiring the Third-Parties to engage in clean-up and remediation of any harm caused from their contributions of phosphorus and other nutrients into the Illinois River Watershed, and other Scenic River Watersheds, as well as other available equitable and legal remedies.

The State of Oklahoma has made the following demands on the Companies:

- 1) immediately cease introduction of the identified nutrients into the Illinois River Watershed;
- 2) immediately assess the damage to the waters and natural resources of the State caused by release of these nutrients into the Illinois River Watershed;
- 3) develop and implement a plan for comprehensive remediation of the waters and natural resources of the State; and
- 4) reimburse the State for past and future response costs, attorney's fees and costs.

Should the State of Oklahoma institute litigation against the Companies, the Companies will seek the same relief from Third-Party Point Source Contributors and Non-Point Source Contributors.

The Attorney General advises that he remains prepared to negotiate. The Companies encourage you to demand a place at the negotiation table. Any comprehensive and effective resolution to reduce the level of these nutrients in the Illinois River Watershed and other Scenic Watershed must involve all stakeholders and potential contributors.

Best regards,

Peterson Farms, Inc.  
c/o Scott McDaniel, Esq.  
(918) 599-0700

Tyson Foods, Inc.  
c/o Stephen Jantzen, Esq.  
(405) 239-6040

Simmons Foods, Inc.  
c/o John Elrod, Esq.  
(479) 582-5711

George's, Inc.  
c/o Gary Weeks, Esq.  
(479) 521-9996

Willow Brook Foods, Inc.  
c/o Thomas Grever, Esq.  
(816) 292-2000

Cargill Turkey Production, L.L.C  
c/o John Tucker, Esq.  
(918) 582-1173

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April 29, 2005

cc: The Honorable Brad Henry  
Governor of the State of Oklahoma  
State Capitol, Room 212  
Oklahoma City, Oklahoma 73105

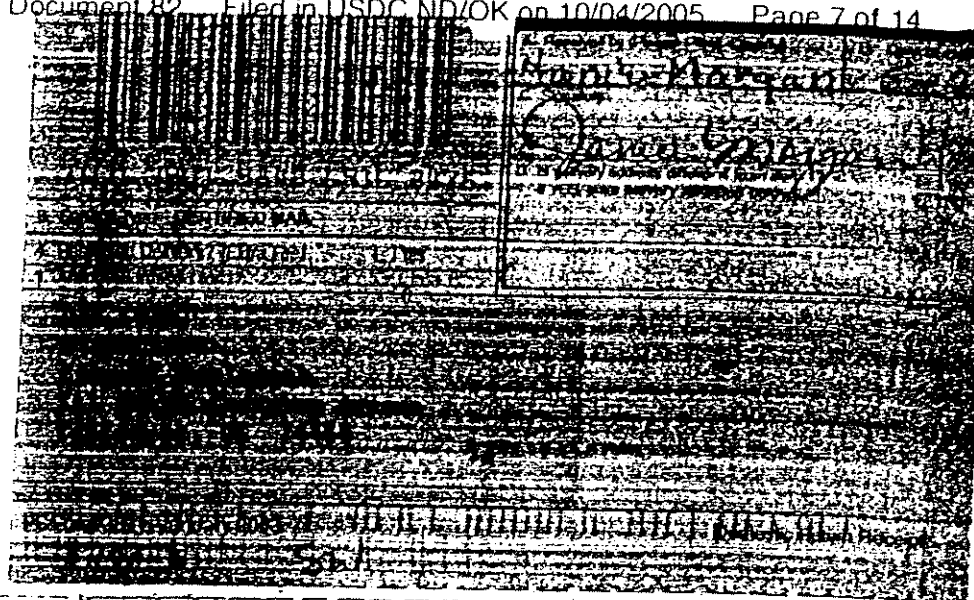
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Oklahoma City, OK 73105





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City Clerk  
City of Tahlequah  
111 South Cherokee Avenue  
Tahlequah, OK 74464

PS Form 3800, January 2003

US Postal Service

Certified Mail Receipt

1790-2

SW

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Reply to: John H. Tucker  
[jtucker@rhodesokla.com](mailto:jtucker@rhodesokla.com)

September 26, 2005

***Via Certified Mail***  
***Return Receipt Requested***

Joanne Fleig  
 City Clerk  
 City of Westville  
 P.O. Box 117  
 Westville, OK 74965

Re: Supplemental Notice of Claim Pursuant to Oklahoma's Governmental Tort Claims Act and Notice of Claim pursuant to Solid Waste Disposal Act

Dear Madam:

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In his Amended Complaint, the Attorney General alleges that Illinois River Watershed has been damaged by poultry litter and its constituents, including the nutrients contained within poultry litter such as phosphorous and phosphorous compounds, and nitrogen and nitrogen compounds.



September 26, 2005  
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The Attorney General is claiming that poultry litter is a federally regulated solid and/or hazardous waste, and that its use in this Watershed is creating an "imminent and substantial endangerment to human health and the environment." The heart of the Attorney General's claim is that when poultry litter is applied to the land within the Watershed as a fertilizer, excess phosphorous and other components of the litter run-off the land and enter into the waters of the State of Oklahoma causing environmental harm.

CTP, Cargill, and the other companies deny that poultry litter or nutrients, such as phosphorus, are solid or hazardous wastes, that any damage has occurred, or that they or their contract poultry growers have violated any law. However, since the Attorney General claims that the release of the constituents of poultry litter including nutrients into the Illinois River Watershed are the source of alleged damages, other sources such as municipal waste systems, and recreational facilities and their waste handling facilities, may be potentially liable under the same theories under state and federal law. You are receiving this notice pursuant to 42 U.S.C. § 6972(a)(1)(B) and OKLA. STAT. tit. 51 § 156, because your activities may be contributing nutrients and other substances to the waters in the Illinois River Watershed, by virtue of your operations of the aforementioned types, and the Attorney General has claimed that such nutrients and substances are causing an "imminent and substantial endangerment to human health and the environment."

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The State of Oklahoma is seeking the following in its First Amended Complaint:

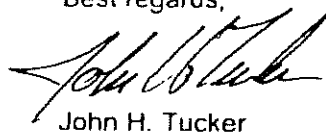
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- V. Restitution in an amount sufficient to make the State of Oklahoma whole for loss and damages it has suffered by release of these alleged constituents into the Illinois River Watershed;
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Best regards,



John H. Tucker

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Governor of the State of Oklahoma  
State Capitol, Room 212  
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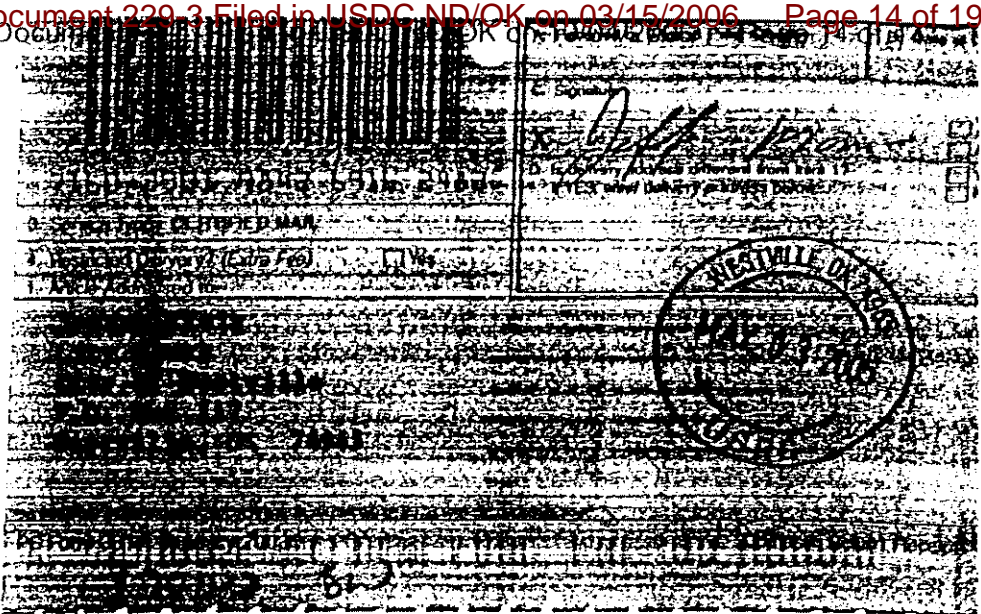
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2300 N. Lincoln Blvd., Ste 112  
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7160 3901 9842 6916 2462

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Sent To: Joanne Fleig City Clerk City of Westville P.O. Box 117 Westville, OK 74965			
PS Form 3800, January 2003		US Postal Service	Certified Mail Receipt
1790-2 312		2	



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Bradley S. Shelts  
Lindsay J. McDowell  
Margaret M. Clarke  
Denelda L. Richardson

Hal Crouch (1902–1947)  
Chris L. Rhodes (1902–1966)  
E. D. Hieronymus (1908–1994)  
George W. Gable (1918–2000)

— Est. 1931 —

**RhodesHieronymus**  
**O K L A H O M A**

Reply to: **John H. Tucker**  
[jtucker@rhodesokla.com](mailto:jtucker@rhodesokla.com)

September 26, 2005

***Certified Mail***  
***Return Receipt Requested***

City Clerk  
City of Watts  
County Road 08049  
Watts, Oklahoma 74964

Watts Public Works Authority  
County Road 08049  
Watts, Oklahoma 74964

Re: Notice of Claim Pursuant to Oklahoma's Governmental Tort Claims Act and Notice  
of Claim pursuant to Solid Waste Disposal Act

Dear Sir/Madam:

Pursuant to OKLA. STAT. tit. 51 § 156 and 42 U.S.C. § 6972(a)(1)(B), Cargill Turkey Production, LLC ("CTP") and Cargill, Inc. ("Cargill") are providing you with its ninety-day notice of claim.

On June 13, 2005, the Attorney General for the State of Oklahoma filed a lawsuit in the Northern District of Oklahoma against CTP, Cargill and other companies. On August 19, 2005, the Attorney General filed his First Amended Complaint. A copy of the First Amended Complaint is attached hereto. In its Amended Complaint, the State of Oklahoma has asserted claims under the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9601 *et seq.*, the Solid Waste Disposal Act ("SWDA"), 42 U.S.C. § 6972, state and federal statutes, and state and federal common law. Because the Attorney General served this lawsuit on CTP, Cargill and other companies, the same law requires that CTP and Cargill provide a 90-day notice to any other entity, party or company that they claim should be a part of any lawsuit filed by the Attorney General.

In his Amended Complaint, the Attorney General alleges that Illinois River Watershed has been damaged by poultry litter and its constituents, including the nutrients contained within poultry litter such as phosphorous and phosphorous compounds, and nitrogen and nitrogen compounds. The Attorney General is claiming that poultry litter is a federally regulated solid and/or hazardous

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Page 2

waste, and that its use in this Watershed is creating an "imminent and substantial endangerment to human health and the environment." The heart of the Attorney General's claim is that when poultry litter is applied to the land within the Watershed as a fertilizer, excess phosphorous and other components of the litter run-off the land and enter into the waters of the State of Oklahoma causing environmental harm.

CTP, Cargill and the other companies deny that poultry litter or nutrients, such as phosphorus, are solid or hazardous wastes, that any damage has occurred, or that they or their contract poultry growers have violated any law. However, since the Attorney General claims that the release of the constituents of poultry litter including nutrients into the Illinois River Watershed are the source of alleged damages, other sources such as municipal waste systems, recreational facilities and their waste handling facilities, may be potentially liable under the same theories under state and federal law. You are receiving this notice pursuant to 42 U.S.C. § 6972(a)(1)(B) and OKLA. STAT. tit. 51 § 156, because your activities may be contributing nutrients and other substances to the waters in the Illinois River Watershed, by virtue of your operations of the aforementioned types, and the Attorney General has claimed that such nutrients and substances are causing an "imminent and substantial endangerment to human health and the environment."

CTP, Cargill, and the other companies deny the State's allegations, including that damage has occurred and deny that they are responsible for any such damage. However, because the State of Oklahoma instituted this litigation, CTP and Cargill intend to bring Third-Party Complaints against you, other point source contributors, and other non-point source contributors seeking relief in the form of an injunction requiring the third-parties to participate with CTP, Cargill and the other companies in each and every aspect of relief the Attorney General intends to achieve to the extent permissible under Oklahoma's Governmental Tort Claims Act. CTP and Cargill will also seek all other equitable and legal remedies available.

The State of Oklahoma is seeking the following in its First Amended Complaint:

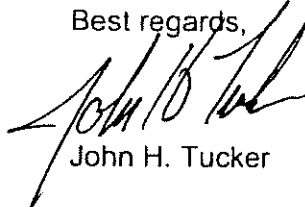
- I. All past monetary damages suffered by and all costs and expenses incurred by the State of Oklahoma in the Illinois River Watershed;
- II. All future monetary damages suffered by and all costs and expense incurred by the State of Oklahoma as result of and in connection with the continuing effects of the wrongful conduct in the Illinois River Watershed;
- III. A permanent injunction requiring the immediate abatement of pollution-causing conduct in the Illinois River Watershed, to remediate the Watershed, including the lands, waters and sediments therein, and to take all such actions as may be necessary to abate the imminent and substantial endangerment to the health and the environment;
- IV. All costs associated with assessing and quantifying the amount of remediation and natural resource damages as well as the amount of the natural resource damages itself;

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Page 3

- V. Restitution in an amount sufficient to make the State of Oklahoma whole for loss and damages it has suffered by release of these alleged constituents into the Illinois River Watershed;
- VI. Disgorgement of all gains realized in consequence of the release of these alleged constituents into the Illinois River Watershed;
- VII. Statutory penalties; and
- VIII. Reimburse the State for its attorney's fees and costs.

CTP and Cargill shall seek the same relief from Third-Party Point Source Contributors and Non-Point Source Contributors including the City of Watts to the extent permitted by law. It is CTP and Cargill's position that any comprehensive and effective resolution to reduce the level of these constituents in the Illinois River Watershed must involve all stakeholders and potential contributors.

Best regards,



John H. Tucker

JHT:sw  
Enclosure

cc: The Honorable Brad Henry  
Governor of the State of Oklahoma  
State Capitol, Room 212  
Oklahoma City, Oklahoma 73105

Stephen J. Johnson  
Administrator  
Environmental Protection Agency  
Ariel Rios Building  
1200 Pennsylvania Ave., NW  
Washington, DC 20460

Richard Green  
Regional Administrator  
Environmental Protection Agency  
Region 6  
1445 Ross Ave. Ste 1200  
Dallas, TX 75202

Steve Thompson  
Executive Director  
Oklahoma Department  
of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101-1677

The Honorable W.A. Drew Edmondson  
Attorney General of the State of Oklahoma  
2300 N. Lincoln Blvd., Ste 112  
Oklahoma City, OK 73105

7160 3901 9842 8915 0582

US Postal Service	
<b>Certified Mail</b>	Postage \$ <u>3.85</u>
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Domestic Mail Only No Insurance Coverage Provided	Return Receipt Fee (Endorsement Required) <u>1.95</u>
	Restricted Delivery Fee (Endorsement Required)
	Total Postage & Fees \$ <u>7.10</u>

Sent To:  
City Clerk  
City of Watts  
County Road 08049  
Watts, OK 74964

PS Form 3800, January 2005 US Postal Service Certified Mail Receipt

1790-2 JHT/803

7160 3901 9842 8915 0582

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by (Please Print Clearly)	B. Date of Delivery
<u>James the Highline</u>	<u>9-26-05</u>
C. Signature	
<input checked="" type="checkbox"/> Delivery address different from item 1?	
<input checked="" type="checkbox"/> YES, enter delivery address below:	
<input type="checkbox"/> NO	
<input type="checkbox"/> Agent	
<input type="checkbox"/> Addressee	

City Clerk  
City of Watts  
County Road 08049  
Watts, OK 74964

PS Form 3811, January 2005 Domestic Return Receipt

1790-2 JHT/803

7160 3901 9842 8915 0599

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Total Postage & Fees		\$ 7.30	

Postmark Here  
TULSA OK 74100  
SEP 27 2005  
P.S.

Sent To:  
Watts Public Works Authority,  
County Road 08049  
Watts, OK 74964

PS Form 3800, January 2005

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1790-2 JHT/su

2. Article Number		7160 3901 9842 8915 0599	
3. Service Type: CERTIFIED MAIL			
4. Restricted Delivery? (Extra Fee)			
1. Article Addressed to			
Watts Public Works Authority, County Road 08049 Watts, OK 74964			

PS Form 3811, January 2005

1790-2 JHT/su

COMPLETE THIS SECTION ON DELIVERY	
A. Received by: (Please Print Clearly)	B. Date of Delivery
Signature X <i>James H. Adams</i>	9-28-05
D. Address delivery address different from item 1? (YES, enter delivery address below)	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

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